IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

POLAROID CORPORATION,

    Plaintiff and Counterclaim Defendant,

      v.

HEWLETT-PACKARD COMPANY,

    Defendants and Counterclaim Plaintiff.

C.A. No. 06-738-SLR

HEWLETT-PACKARD COMPANY'S NOTICE OF AGREEMENT TO POLAROID'S PROPOSED CONSTRUCTION OF "AVERAGING" AND "AVERAGE"

In the parties' submissions regarding claim construction, Hewlett-Packard Company ("HP") proposed constructions for the terms "averaging" (in claims 1 and 7) and "average" (in claims 1,2, 7 and 8) of U.S. Patent No. 4,829,381 that differed from the constructions for those terms proposed by Polaroid Corporation ("Polaroid"). In the interest of reducing the number of disputed claim terms that the Court must resolve, HP hereby agrees to Polaroid's proposed constructions of the terms "averaging" and "average." For the convenience of the Court, attached hereto as Exhibit A are replacements for pages 3 and 4 of the Joint Claim Construction Chart (D.I. 90) to reflect that "HP agrees to Polaroid's construction" for each of these terms. Attached hereto at Exhibit B are redlined versions of these same pages to reflect the changes from the original filing.

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Dated: May 15, 2008

<u>CERTIFICATE OF SERVICE</u>

I hereby certify that on May 15, 2008, I electronically filed with the Clerk of Court the

foregoing document using CM/ECF which will send electronic notification of such filing(s) to

the following counsel:

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EXHIBIT A

Claim Term	Polaroid's Claim Construction	Hewlett-Packard's Claim Construction
	value within a determinate dynamic range of values" should be construed to mean **"each signal being associated with a value that lies within a range of possible values bounded by definite limits."**	
means for averaging electronic information signals corresponding to selected pluralities of pixels and providing an average electronic information signal for each said plurality of pixels so averaged [Claim 1] This claim element is a means-plus-function element under 35 U.S.C. § 112, ¶ 6.	The **function** of this means-plus-function element is averaging electronic information signals corresponding to selected pluralities of pixels and providing an average electronic information signal for each said plurality of pixels so averaged. The terms used to describe the function should be construed as: *"averaging"* should be construed to mean **"calculating an intermediate value for."** *"electronic information signals"* should be construed to mean **"signals providing pixel information, such as color, luminance, or chrominance values."** *"average electronic information signal"* should be construed to mean **"signal providing pixel information, such as a color, luminance, or chrominance value of calculated intermediate value."** The corresponding **structure** is a low pass filter or block average and equivalents thereof.	**Function:** providing an average for selected pixel values around one pixel, where the average is correlated to each pixel making up the average. **Disclosed Structure:** a block averager 12 with a buffer memory that takes luminance as an input and outputs an average luminance value that is correlated to each pixel in the block, and equivalents thereof.
averaging [Claims 1 and 7]	*"averaging"* should be construed to mean **"calculating an intermediate value for."**	HP agrees to Polaroid's construction of "averaging"

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Claim Term	Polaroid's Claim Construction	Hewlett-Packard's Claim Construction
average [Claims 1, 2, 7 and 8]	*"average"* should be construed to mean **"of calculated intermediate value."**	**HP agrees to Polaroid's construction of "average"**
average electronic information signal [Claims 1, 2, 7 and 8]	*"average electronic information signal"* should be construed to mean **"signal providing pixel information, such as a color, luminance, or chrominance value of calculated intermediate value."**	*No construction necessary.* Alternatively: the average of the electronic information signals.
means for selecting one of a plurality of different transfer functions for the electronic information signal for each of the succeeding pixels in a manner whereby each transfer function is selected as a function of the electronic information signal for one pixel and the average electronic information signal for the select plurality of pixels containing said one pixel and for subsequently transforming the electronic information signal corresponding to each pixel by the transfer function selected for that pixel wherein said selecting and transforming means further operates to select said transfer function as a function of the ratio of the value of the average electronic information signal to the dynamic range of the electronic information signals such that the ratio increases in correspondence with the increase in the value of the average electronic information signal [Claim 1]	The **function** of this means-plus-function element is selecting one of a plurality of different transfer functions for the electronic information signal for each of the succeeding pixels and for subsequently transforming the electronic information signal corresponding to each pixel by the transfer function selected for that pixel wherein said selecting and transforming means further operates to select said transfer function as a function of the ratio of the value of the average electronic information signal to the dynamic range of the electronic information signals such that the ratio increases in correspondence with the increase in the value of the average electronic information signal. The terms used to describe the function should be construed as: *"transfer function"* should be construed to mean **"function that transforms an input signal."** *"electronic information signal"* should be construed to mean **"signal providing pixel information, such as a color, luminance, or**	**Function:** selecting a transfer function for each incoming pixel based on the pixel value and its corresponding average electronic information signal, and based on the result of dividing a first existing data value representing the average electronic information signal by a second existing data value representing the dynamic range of the average electronic information signals. **Disclosed Structure: none (*indefinite*),** alternatively: a gamma determining circuit 14 containing a multiplier circuit 18, a combining circuit 20, a second combiner circuit 22, a log circuit 24, a multiplier circuit 26 and a antilogarithmic determining circuit 28 – all arranged according to Fig 4, which computes gamma based on the formula $\gamma = (1+C)^{(A_v/M-1)}$, where A_v is average luminance of the input, C is a constant and M equals one half of the dynamic range. and the transfer function imposing circuit 16 containing a logarithm determining circuit 30, a combiner circuit 32, a multiplier circuit 34, a

EXHIBIT B

Claim Term	Polaroid's Claim Construction	Hewlett-Packard's Claim Construction
	value within a determinate dynamic range of values" should be construed to mean "**each signal being associated with a value that lies within a range of possible values bounded by definite limits.**"	
means for averaging electronic information signals corresponding to selected pluralities of pixels and providing an average electronic information signal for each said plurality of pixels so averaged [Claim 1] This claim element is a means-plus-function element under 35 U.S.C. § 112, ¶ 6.	The **function** of this means-plus-function element is averaging electronic information signals corresponding to selected pluralities of pixels and providing an average electronic information signal for each said plurality of pixels so averaged. The terms used to describe the function should be construed as: "*averaging*" should be construed to mean "**calculating an intermediate value for.**" "*electronic information signals*" should be construed to mean "**signals providing pixel information, such as color, luminance, or chrominance values.**" "*average electronic information signal*" should be construed to mean "**signal providing pixel information, such as a color, luminance, or chrominance value of calculated intermediate value.**"	**Function:** providing an average for selected pixel values around one pixel, where the average is correlated to each pixel making up the average. **Disclosed Structure:** a block averager 12 with a buffer memory that takes luminance as an input and outputs an average luminance value that is correlated to each pixel in the block, and equivalents thereof.
averaging [Claims 1 and 7]	The corresponding **structure** is a low pass filter or block average and equivalents thereof. "*averaging*" should be construed to mean "**calculating an intermediate value for.**"	~~taking an arithmetic mean of~~ or HP agrees to Polaroid's construction of "averaging"

Claim Term	Polaroid's Claim Construction	Hewlett-Packard's Claim Construction
average [Claims 1, 2, 7 and 8]	"*average*" should be construed to mean "**of calculated intermediate value.**"	~~an arithmetic mean~~ HP agrees to Polaroid's construction of "average"
average electronic information signal [Claims 1, 2, 7 and 8]	"*average electronic information signal*" should be construed to mean "**signal providing pixel information, such as a color, luminance, or chrominance value of calculated intermediate value.**"	*No construction necessary.* Alternatively: the average of the electronic information signals.
means for selecting one of a plurality of different transfer functions for the electronic information signal for each of the succeeding pixels in a manner whereby each transfer function is selected as a function of the electronic information signal for one pixel and the average electronic information signal for the select plurality of pixels containing said one pixel and for subsequently transforming the electronic information signal corresponding to each pixel by the transfer function selected for that pixel wherein said selecting and transforming means further operates to select said transfer function as a function of the ratio of the value of the average electronic information signal to the dynamic range of the electronic information signals such that the ratio increases in correspondence with the increase in the value of the average electronic information signal [Claim 1]	The **function** of this means-plus-function element is selecting one of a plurality of different transfer functions for the electronic information signal for each of the succeeding pixels and for subsequently transforming the electronic information signal corresponding to each pixel by the transfer function selected for that pixel wherein said selecting and transforming means further operates to select said transfer function as a function of the ratio of the value of the average electronic information signal to the dynamic range of the electronic information signals such that the ratio increases in correspondence with the increase in the value of the average electronic information signal. The terms used to describe the function should be construed as: "*transfer function*" should be construed to mean "**function that transforms an input signal.**" "*electronic information signal*" should be construed to mean "**signal providing pixel information, such as a color, luminance, or**	**Function:** selecting a transfer function for each incoming pixel based on the pixel value and its corresponding average electronic information signal, and based on the result of dividing a first existing data value representing the average electronic information signal by a second existing data value representing the dynamic range of the average electronic information signals. **Disclosed Structure: none (*indefinite*),** alternatively: a gamma determining circuit 14 containing a multiplier circuit 18, a combining circuit 20, a second combiner circuit 22, a log circuit 24, a multiplier circuit 26 and a antilogarithmic determining circuit 28 – all arranged according to Fig 4, which computes gamma based on the formula $\gamma = (1+C)^{(A_v/M-1)}$, where A_v is average luminance of the input, C is a constant and M equals one half of the dynamic range. and the transfer function imposing circuit 16 containing a logarithm determining circuit 30, a combiner circuit 32, a multiplier circuit 34, a

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